

Appl. No. 10/608,663
Amdt. dated August 29, 2005
Reply to Office Action mailed May 27, 2005

REMARKS

This Amendment is in response to the Office Action mailed on May 27, 2005. The specification has been amended to delete an extra period at the end of paragraph [0020]. A new claim 23 has been added, which finds support at paragraph [0021] and does not add any new matter.

In the Office Action, claim 7 was rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite, due to a lack of antecedent basis for the limitation “the spring” in line 1. In response, the Applicants amended claim 1 to positively recite “the reverse pressure exhaust valve including a control element, said control element including a ball being biased toward a normally closed condition by a spring”, thereby providing antecedent basis for “the spring” in claim 7, which depends from claim 1. It is respectfully submitted that the amendment to claim 1 overcomes the rejection.

Claims 1-3 and 6 were rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Miura, U.S. Patent No. 4,147,179 (“Miura”). Claim 1, as amended, recites that the reverse pressure exhaust valve includes a control element including a ball biased toward a normally closed condition by a spring. It is respectfully submitted that Miura does not disclose a reverse pressure exhaust valve including a control element in the form of a ball. It is therefore respectfully submitted that neither claim 1, as amended, nor any claims depending therefrom, are anticipated by Miura.

Claims 4 and 5 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Miura, as applied to claims 1-3, and further in view of Westbrook, U.S. Patent No. 3,906,786 (“Westbrook”). As discussed in the preceding paragraph, claim 1, as amended, recites structure that is not disclosed by Miura. Thus, it is respectfully submitted that providing a filter or moisture trap between the inlet and outlet of Miura, based on

Westbrook's use of a filter and moisture trap, would not result in the Applicants' claims 4 and 5, which depend from claim 1.

Furthermore, it is respectfully submitted that Westbrook is non-analogous to the Applicants' claims. Westbrook relates to the sensing or measuring of torque transmitted by a rotating shaft, and as such, is not related to the Applicants' field of endeavor. Nor would a person of ordinary skill in the Applicants' art reasonably have consulted Westbrook and applied its teachings in seeking a resolution the problems faced by the Applicants.

Claim 7 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Miura, and the Examiner's official notice that "it is well known to choose a spring based on the desired opening pressure and the particular value of six psi is a design choice over those features disclosed in Miura in that it neither solves any stated problem nor provided any new and/or unexpected result." For the reasons discussed above, it is respectfully submitted that even if Miura were modified as proposed, the combination would not result in the Applicants' claim 7.

Additionally, the Applicants respectfully traverse the reliance in the Office Action on official notice. It is respectfully submitted that, according to MPEP 2144.04, "[i]t is never appropriate to rely solely on common knowledge within the art without evidentiary support in the record as the principal evidence upon which a rejection is based." Additionally, any facts of which official notice is taken in a rejection "should be of notorious character and serve only to 'fill in the gaps' in an insubstantial manner which might exist in the evidentiary showing made" to support a particular ground for rejection. In this instance, taking official notice of both choosing a spring based on the desired opening pressure, and of the particular value of six psi as a design choice, amounts to official notice of more than just an insubstantial gap-filler. Rather, the rejection amounts to a strained interpretation of any teaching or suggestion of Miura, to support a finding obviousness. Withdrawal of the


Appl. No. 10/608,663
Amdt. dated August 29, 2005
Reply to Office Action mailed May 27, 2005

rejection is respectfully solicited. In the alternative, documentary evidence should be provided to support the allegation that it is well known to choose a spring based on the desired opening pressure.

Conclusion

In view of the foregoing, it is respectfully submitted that the claims of the present application are in condition for allowance. The Examiner's reconsideration and favorable action are respectfully requested. In the event any fees are necessary in connection with the present Amendment, kindly charge the cost thereof to our Deposit Account No. 13-2855.

Respectfully submitted,


Jeremy R. Krieger
Reg. No. 39,257

MARSHALL, GERSTEIN & BORUN LLP
233 South Wacker Drive, Suite 6300 Sears Tower
Chicago, Illinois 60606-6357
Telephone: (312) 474-6300
Facsimile: (312) 474-0448